

IN RE: PETITION FOR VARIANCE

N side of Railroad Avenue, 335' W
of Seminary Avenue
8th Election District
3rd Council District
(1428 Railroad Avenue)

Trevor Builders, Inc.
Petitioner

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2011-0339-A

* * * * *

IN RE: PETITION FOR VARIANCE

NW side of Railroad Avenue, 320' W
of Seminary Avenue
8th Election District
3rd Council District
(1426 Railroad Avenue)

Trevor Builders, Inc.
Petitioner

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2011-0340-A

* * * * *

OPINION AND ORDER

These matters come before the Office of Administrative Hearings for consideration of two (2) Petitions for Variance filed by the legal owner of the subject properties, Trevor Builders, Inc. The first matter, Case No. 2011-0339-A, 1428 Railroad Avenue, is brought by Roger Mann, President of Trevor Builders, Inc., and is requesting Variance relief under Section 1B02.3.C.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a front yard setback of 20 feet, side yard setbacks of 4 feet for each side, and a lot width of 32 feet in lieu of the required 25 feet, 10 feet, and 55 feet, respectively. The second matter, Case No. 2011-0340-A, 1426 Railroad Avenue, is also brought by Roger Mann, President of Trevor Builders, Inc., and is requesting Variance relief under Section 1B02.3.C.1 of the B.C.Z.R. to permit a front yard setback of 20 feet, side yard setbacks of 5.8 feet for each side, and a lot width of 37 feet in lieu of the required 25

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Date 7-15-11

By [Signature]

feet, 10 feet, and 55 feet respectively. The subject properties and requested relief are more fully described on the site plans that were marked and accepted into evidence as Petitioner's Exhibits 1 (1426 Railroad Avenue) and 1A (1428 Railroad Avenue).

Appearing at the requisite public hearing in support of the variance requests were Petitioner Roger Mann of Trevor Builders, Inc. and John Willard, Esquire with McCadden & Willard, P.A., counsel for Petitioner. Eric Rockel attended the hearing and opposed the Petitioner's requests.

Testimony and evidence offered revealed that the subject properties are small parcels zoned DR 5.5, located in the Lutherville area of Baltimore County. Both parcels are improved with single family dwellings which, according to tax records, were constructed over 100 years ago. Petitioner purchased the homes several months ago for \$70,000. Petitioner seeks to raze the dwellings, and will construct in their place dwellings of comparable size and appearance. Petitioner testified he built the house at 1430 Railroad Avenue (depicted on Petitioner's Exhibit 2), which is situated immediately adjacent to the subject parcels, and Mr. Mann testified the houses proposed for 1426 and 1428 Railroad Avenue would be very similar in size and appearance to that dwelling.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse comments received from any of the County reviewing agencies.

Based upon the testimony and evidence presented, I am persuaded to grant Petitioner relief under B.C.Z.R. § 304, concerning undersized lots. I will not grant relief under B.C.Z.R. § 307, the more generic variance provision of the B.C.Z.R., since the Petitioner submitted no evidence or argument regarding uniqueness of the property or any practical difficulty it would experience if

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Date 7-15-11

2

By [Signature]

variance relief was denied. Both elements are prerequisites to relief under § 307. *Cromwell v. Ward*, 102 Md. 691 (1995).

Finally, the disposition of this case is governed by Mueller v. People's Counsel, 177 Md. App. 43 (2007), in which the Court of Special Appeals held that in those scenarios where it is applicable (as it is in this case) B.C.Z.R. § 304 controls over the more general variance provision found at § 307. B.C.Z.R. § 304 is a "grandfathering" regulation that allows (under certain conditions) an owner to build on land that has become substandard as a result of the enactment of restrictive zoning regulations.

As noted above, the dwellings on the subject property were constructed over 100 years ago, long before Baltimore County first enacted a set of zoning regulations. The subject properties later became substandard, given that the B.C.Z.R requires certain lot widths and setbacks that are not met. B.C.Z.R. § 1B02.3.C. To obtain relief under B.C.Z.R. § 304 does not require a Petitioner to satisfy the standards for variance relief under § 307. Id. At 84, 87.

B.C.Z.R. § 304 provides in pertinent part as follows:

§ 304.1. Types of dwellings allowed; conditions.
[Bill Nos. 64-1999; 28-2001]

Except as provided in Section 4A03, a one-family detached or semidetached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. Such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955;
- B. All other requirements of the height and area regulations are complied with; and
- C. The owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations.

In this case, it is clear that elements A and B are satisfied: the lots were created by deed long before 1955, and the lots and structures proposed thereon will meet the height and area requirements of the zone. Petitioner testified the homes will be approximately 24 feet high from

ORDER RECEIVED FOR FILING

Date 7-15-11

3

By [Signature]

grade level to roof peak, and the tax records reveal both lots are larger than 6,000 square feet. See B.C.Z.R. 1B02.2.A and 1B02.3.C.

Thus, the only open issue is whether Petitioner satisfies B.C.Z.R. § 304.1.C. Mr. Rockel contends Petitioner in fact owns both 1426 and 1428 Railroad Avenue, and as such has “sufficient adjoining land” to enable it to construct one dwelling on both lots that would comply with all current zoning regulations., i.e., B.C.Z.R. § 1B02.3.C. A similar argument was made in Mueller, and the Court held that § 304 was meant to prohibit construction on undersized residential lots “when a landowner possesses a contiguous, vacant or undeveloped parcel of property.” Id. At 93. (emphasis in original). That is not the case here (since both parcels are improved) and Petitioner therefore satisfies all elements required under § 304.1. Petitioner is subject to the further requirements and procedures set forth in B.C.Z.R. § 304.2-.7, which essentially examines whether the proposed dwellings are compatible with the surrounding neighborhood. Id. At 71-71 (discussing “compatibility” phase of the process). Petitioner submitted a letter from the adjoining owners at 1430 Railroad Avenue (Petitioner’s Exhibit 3) wherein they express support for the Petitioner’s proposal, and this and similar information will no doubt be pertinent to the analysis under B.C.Z.R. § 304.2-.7.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and after considering the testimony and evidence offered, I find that Petitioner should be granted relief under B.C.Z.R. § 304.

THEREFORE, IT IS ORDERED this 15 day of July, 2011 by this Administrative Law Judge that Petitioner’s Variance request for Case No. 2011-0339-A, 1428 Railroad Avenue, pursuant to Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (“B.C.Z.R.”), to permit a front yard setback of 20 feet, side yard setbacks of 4 feet for each side, and a lot width of

ORDER RECEIVED FOR FILING

Date 7-15-11

4

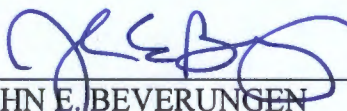
By [Signature]

32 feet in lieu of the required 25 feet, 10 feet, and 55 feet, respectively, be and is hereby granted pursuant to B.C.Z.R. § 304;

IT IS FURTHER ORDERED that Petitioner's Variance request for Case No. 2011-0340-A, 1426 Railroad Avenue, pursuant to Section 1B02.3.C.1 of the B.C.Z.R., to permit a front yard setback of 20 feet, side yard setbacks of 5.8 feet for each side, and a lot width of 37 feet in lieu of the required 25 feet, 10 feet, and 55 feet respectively, be and is hereby GRANTED, pursuant to B.C.Z.R. § 304, subject to the following:

1. Petitioner is obliged to comply with B.C.Z.R. § 304 in its entirety, including the submission of plans and/or elevation drawings to the Department of Permits, Approvals and Inspections at the time of building permit application.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/pz

ORDER RECEIVED FOR FILING

Date 7-15-11

By 



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

July 15, 2011

JOHN WILLARD, ESQUIRE
MCCADDEN & WILLARD, P.A.
28 ALLEGHENY AVENUE, SUITE 1306
TOWSON MD 21204

Re: Petition for Variance
Case Nos. 2011-0339-A and 2011-0340-A
Properties: 1428 Railroad Avenue and 1426 Railroad Avenue

Dear Mr. Willard:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file with the Department of Permits, Approvals and Inspections an appeal within thirty (30) days from the date of this Order. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in dark ink, appearing to read "JEB", is written over the typed name of John E. Beverungen.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:pz

Enclosure

c: Eric Rockel, 1610 Riderwood Drive, Lutherville MD 21093



Petition for Variance

TAX ACCOUNT #

to the Zoning Commissioner of Baltimore Countyfor the property located at 1428 Railroad Ave.which is presently zoned DR-S.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

see attached

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Telephone No.

Zip Code

Representative to be Contacted:

Name

Address

City

State

Telephone No.

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By BR Date 5/19/11Case No. 2011-0339-A

1B02.3.C.1 to permit a front yard setback of 20 ft., side yard setbacks of 4 ft. for each side, and a lot width of 32 ft. in lieu of the required 25 ft., 10 ft., and 55 ft., respectively.

Parcel 2

Beginning at a point on the north side of Railroad Ave which is 20 feet wide at the distance of 335 feet southwest of the centerline of Seminary Ave which is 60 feet wide, which is recorded in Liber 30782 Folio 433 and describes as follows:

- 1) North 37° West 165 feet;
- 2) South 53° West 32 feet;
- 3) South 37° West 217.8 feet;
- 4) North 53° East 32 feet
- 5) North 37° West 52.80 to the place of beginning.

Certificate of Posting

Department of Permits, Approval, and Inspections
Baltimore County
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

Date: June 21, 2011

Attention: Ms. Kristen Lewis

Re: Case Number: 2011-0339-A

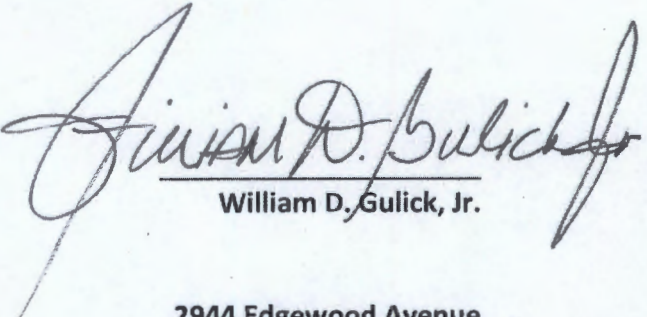
Petitioner/Developer: Trevor Builders, Inc., Roger Mann, Pres.

Date of Hearing/Closing: July 6, 2011

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: # 1428 Railroad Avenue

The sign(s) were posted on:

June 21, 2011



William D. Gulick, Jr.

2944 Edgewood Avenue
Baltimore, MD 21234
(410) 530-6293

ZONING NOTICE

CASE # 2011-0339-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

JEFFERSON BUILDING, ROOM 205
105 WEST CHESAPEAKE AVENUE
PLACE: TOWSON, MD 21204

WEDNESDAY
DATE AND TIME: JULY 6, 2011 AT 10:00 AM

REQUEST: VARIANCE TO PERMIT A

FRONT YARD SETBACK OF 20 FEET, SIDE
YARD SETBACK OF 4 FEET FOR EACH SIDE,
AND A LOT WIDTH OF 32 FEET IN LIEU OF
THE REQUIRED 25 FEET, 10 FEET AND 55
FEET RESPECTIVELY.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONTINUE HEARING CALL 410-3391 (410)

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE



✓ #1428

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 21, 2011 Issue - Jeffersonian

Please forward billing to:
Roger Mann
15106 Tanyard Road
Sparks, MD 21152

443-271-1396

NOTICE OF ZONING HEARING

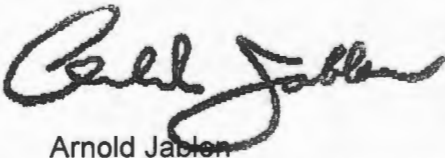
The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0339-A

1428 Railroad Avenue
N/side of Railroad Avenue, 335 feet southwest of Seminary Avenue
8th Election District – 3rd Councilmanic District
Legal Owners: Trevor Builders, Inc., Roger Mann, President

Variance to permit a front yard setback of 20 feet, side yard setback of 4 feet for each side, and a lot width of 32 feet in lieu of the required 25 feet, 10 feet and 55 feet respectively.

Hearing: Wednesday, July 6, 2011 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

June 9, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0339-A

1428 Railroad Avenue

N/side of Railroad Avenue, 335 feet southwest of Seminary Avenue

8th Election District – 3rd Councilmanic District

Legal Owners: Trevor Builders, Inc., Roger Mann, President

Variance to permit a front yard setback of 20 feet, side yard setback of 4 feet for each side, and a lot width of 32 feet in lieu of the required 25 feet, 10 feet and 55 feet respectively.

Hearing: Wednesday, July 6, 2011 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon", is written over the printed name and title.

Arnold Jablon
Director

AJ:kl

C: John Willard, McCadden & Willard, 28 Allegheny Avenue, Ste. 1306, Towson 21204
Roger Mann, 15106 Tanyard Road, Sparks 21152

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 21, 2011.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 2011- 0339- A
Petitioner: Roger Mann / Trevor Builders, Inc
Address or Location: 1428 Railroad Ar Lutherville, MD 21093

PLEASE FORWARD ADVERTISING BILL TO:

Name: Roger Mann
Address: 15106 Tanyard Rd
Sparks, MD 21152
Telephone Number: 443 271 1396

Revised 2/17/11 DT

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2011-0339-A

1428 Railroad Avenue

N/side of Railroad Avenue, 335 feet West of

Seminary Avenue

8th Election District — 3rd Councilmanic District

Legal Owner(s): Trevor Builders, Inc., Roger Mann,
President

Variance: to permit a front yard setback of 20 feet, side yard setback of 4 feet for each side, and a lot width of 32 feet in lieu of the required 25 ft., 10 feet and 55 feet respectively.

Hearing: Wednesday, July 6, 2011 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

IT 06/679 June 21 279054

CERTIFICATE OF PUBLICATION

6/23/2011

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/21/2011.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **69058**

Date: 5/19/11

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	520	0000		0150				875.00

Total: 875.00

Rec
From:

For:

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 5/20/2011 5/19/2011 10:44:05 2

RE: W302 MAIL JENA JEE

>> RECEIPT # 735620 5/19/2011 OFLN

Dest 5 528 ZONING VERIFICATION

CR NO. 069058

Recpt Tot \$75.00

\$150.00 CR \$1.00 CA

Baltimore County, Maryland

**CASHIER'S
 VALIDATION**



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

June 20, 2011

Mr. Roger Mann
15106 Tanyard Road
Sparks, MD 21152

RE: Case Number 2011-0339-A, 1428 Railroad Avenue

Dear Mr. Mann,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 4, 2011. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
John Willard, McCadden & Willard, 28 Allegheny Ave., Ste. 1306, Towson, MD 21204



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

June 3, 2011

County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: **June 6, 2011**

Item No.:

Special Hearing: 2011-0345-SPH, 2011-0346—SPHA.

Variance: 2011-0339A – 0340A, 2011-0344A, 2011-0346—SPHA.

Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

Beverley K. Swaim-Staley, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 6-7-11

Ms. Kristen Matthews
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

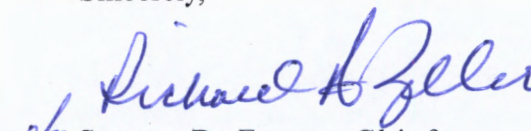
RE: Baltimore County
Item No. 2011-0339-A
Variance
Trevor Builders/Roger Mann
1428 Railroad Avenue.

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0339-A.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,


Steven D. Foster, Chief
Access Management Division

SDF/rz

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: June 9, 2011

FROM: Dennis A. Kennedy, ^{DAK}Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2011
Item Nos. 2011-339 and 340,

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-06202011 -NO COMMENTS.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUN 21 2011



OFFICE OF ADMINISTRATIVE HEARINGS

TO: Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: June 21, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-339-A
Address 1428 Railroad Avenue
(Trevor Builders Property)

Zoning Advisory Committee Meeting of June 6, 2011.

X The Department of Environmental Protection and Sustainability has no comments on the above-referenced zoning item.

Reviewer: *Jeff Livingston; Development Coordination*

RE: PETITION FOR VARIANCE	*	BEFORE THE
1428 Railroad Avenue; N/S Railroad Avenue,		
335' SW Seminary Avenue	*	ADMINISTRATIVE LAW
8 th Election & 3 rd Councilmanic Districts		
Legal Owner(s): Trevor Builders/Roger Mann	*	JUDGE FOR
Petitioner(s)		
	*	BALTIMORE COUNTY
	*	2011-339-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

JUN 06 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of June, 2011, a copy of the foregoing Entry of Appearance was mailed to John Willard, Esquire, McCadden & Willard, PA, 28 Allegheny Avenue, Suite 1306, Towson, Md 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Maryland Department of Assessments and Taxation
Real Property Data Search (vw3.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier: District - 08 Account Number - 0802065700

Owner Information

Owner Name: TREVOR BUILDERS INC **Use:** RESIDENTIAL
Mailing Address: 2506 AILSA AVE **Principal Residence:** NO
BALTIMORE MD 21214- **Deed Reference:** 1)/30782/ 00433
2)

Location & Structure Information

Premises Address **Legal Description**
1428 RAILROAD AVE LT NWS RAILROAD AV
0-0000 .25 AC
290 SW SEMINARY AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0060	0023	0271		0000				2	Plat Ref:

Special Tax Areas **Town** NONE
Ad
Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1907	824 SF	6,848 SF	04

Stories	Basement	Type	Exterior
2.000000	NO	STANDARD UNIT SIDING	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2011	07/01/2010	07/01/2011
Land	80,070	80,000		
Improvements:	16,730	18,300		
Total:	96,800	98,300	96,800	97,300
Preferential Land:	0			0

Transfer Information

Seller:	Date:	Price:
ALESSI RONALD G	05/06/2011	\$70,000
Type: ARMS LENGTH MULTIPLE	Deed1: /30782/ 00433	Deed2:
Seller: ALESSI RONALD G SR	Date: 02/02/1998	Price: \$100,000
Type: ARMS LENGTH MULTIPLE	Deed1: /12639/ 00300	Deed2:
Seller: SHINNERS JOHN E	Date: 03/18/1997	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /12085/ 00496	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2011	07/01/2012
County			0.00
State			0.00
Municipal			0.00

Tax Exempt: **Special Tax Recapture:**
Exempt Class: * NONE *

CASE NAME _____
CASE NUMBER _____
DATE _____

[illegible]

PLEASE PRINT CLEARLY

CASE NAME Town Buildings/Railroad Ave
CASE NUMBER 2011-0339-A
DATE -0340-A

CITIZEN'S SIGN-IN SHEET

NAME

ADDRESS

CITY, STATE, ZIP

E-MAIL

Eric Rockel

1610 Ridgewood DR.

Lutherville MD 21093

erockel@earthlink.net

PROTESTANT

EXHIBIT NO. _____

0012069 538

PLEASE RETURN TO:

Ned S. Kodeck, Chartered
One Reservoir Circle, Suite 201
Baltimore, Maryland 21208
439-545

DEED

THIS DEED, dated February 28, 1997, by and between Trevor Builders, Inc., a Maryland corporation, Grantor, and John A. Rossi and Lisa E. Rossi, husband and wife, as tenants by the entireties, Grantees.

The Grantor for the consideration of Three Hundred Thirty One Thousand Dollars (\$331,00.00) does hereby grant, convey and assign to the Grantees, as husband and wife, tenants by the entireties, and to their assigns, and to the personal representatives, heirs and assigns of the survivor of them, the fee simple property located in Baltimore County Maryland, described as follows:

BEING KNOWN AND DESIGNATED as Lot No. 5, as shown on the plat entitled, "Final Plat Revised Section Three, Ascot Estates", which plat is recorded among the Land Records of Baltimore County in Plat Book EHK, Jr. No. 46, Folio 47. The improvements thereon being known as 14217 Robcaste Road.

BEING the same property which by Deed dated October 3, 1996, recorded among the Land Records of Baltimore County in Liber 0011838, Folio 655, was granted and conveyed by Ascot Estates, Inc., a Maryland corporation, unto Trevor Builders, Inc., a Maryland corporation, the within Grantor.

BEING part of the property which by Deed dated August 31, 1977, recorded among the Land Records of Baltimore County in Liber EHK, Jr. No. 5800, Folio 364, etc., which was granted and conveyed by Harry A. Gamble and Mary C. Hilgartner, Personal Representatives of the Estate of Margaret E. Gamble, unto Ascot Estates, Inc., a body corporate of the State of Maryland, the within Grantors.

SUBJECT TO the covenants and provisions contained in an Easement Agreement by Ascot Estates, Inc., dated March 27, 1996, and recorded among the Land Records of Baltimore County in Liber 0011555, Folio 288.

SUBJECT TO the covenants and provisions contained in an Easement Agreement by Ascot Estates, Inc., dated September 4, 1996, and recorded among the Land Records of Baltimore County immediately prior hereto.

Land uses 30.5% of final sale price

BALTIMORE COUNTY CIRCUIT COURT (Land Records) [MSA GE 604 1924] Book 3M 12069, p. 0538 Printed 07/05/2011. Online 03/04/2005.

NOT APPLICABLE
NOT APPLICABLE

SIGNATURE

DATE

RECEIVED FOR THE
State Department of
Assessment & Taxation

for Baltimore County

By _____ Date _____

This Deed, MADE THIS 22nd day of October in the year Two Thousand Four by and between Trevor Builders, Inc., a body corporate of the State of Maryland, party of the first part, and Kelly L. Wilkinson, party of the second part.

Witnesseth, That in consideration of the sum of Three Hundred Thirty Three Thousand Seven Hundred Forty Three Dollars and 30 Cents (\$333,743.30), the receipt of which is hereby acknowledged, the said party of the first part does grant and convey to the said party of the second part, as sole owner, his/her personal representatives, heirs and assigns, in fee simple, that parcel of ground situated in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lots Nos. 189, 190 and 191, being in the County of Baltimore, State of Maryland, on the plat of the tract of land known as "Carney Heights Addition", which Plat is recorded among the Plat Records of Baltimore County, Maryland in Plat Book 7, folio 19.

SAVING AND EXCEPTING THEREFROM a five (5) foot Highway widening dated October 24, 1984 and recorded among the Land Records of Baltimore County, Maryland in Liber 6818, folio 493

TAX ID NO. 24-00-005295

BEING the same parcel of ground which by deed dated February 12, 2004 and recorded among the Land Records of Baltimore County, Maryland in Liber No. 19630, folio 150 was granted and conveyed by Anita Clark unto Trevor Builders, Inc., the Grantor herein.

The within grantee(s) do hereby certify under the penalty(ies) of perjury that the land conveyed herein is residentially improved owner-occupied real property and that the residence will be occupied by us as evidenced by the signature(s) below.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland

Edward J. Brush
Edward J. Brush, Esquire

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said party of the second part as sole owner, his/her personal representatives, heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

And the said party of the first part hereby certifies that this conveyance is not a part of a transaction effecting a sale, lease, exchange or other transfer of all or substantially all of the property and assets of said corporate grantor herein.

*Original Cost
Land Records
267 of Grandville prices*

This Deed, MADE THIS 30th day of April in the year Two Thousand Four by and between **Trevor Builders Inc.**, a body corporate of the State of Maryland, party of the first part, and **Daniel J. Delighton and Stacy L. Jones**, parties of the second part.

Witnesseth, That in consideration of the sum of **One Hundred Twenty Five Thousand Dollars and NO Cents (\$125,000.00)**, the receipt of which is hereby acknowledged, the said party of the first part does grant and convey to the said parties of the second part, as joint tenants, their assigns, the survivor of them, the survivor's personal representatives, heirs and assigns, in fee simple, that parcel of ground situated in Baltimore County, Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lots Nos. 189, 190, and 191 on the Plat of the tract of land known as Carney Heights Addition, which plat is recorded among the Plat Records of Baltimore County in Plat Book No. 7, folio 19. **The improvements thereon being known as 9709 10th Avenue**

Tax ID No.: 2400005295

SAVING AND EXCEPTING THEREFROM a five (5) foot HIGHWAY WIDENING dated October 24, 1984 and recorded among the Land Records of Baltimore County in Liber 6818 folio 493.

Being the same property described in a Deed dated February 12, 2004 and recorded February 19, 2004 among the Land Records of Baltimore, County, Maryland in Liber 19630 folio 150, which was granted and conveyed by Anita Clark unto Trevor Builders, Inc.

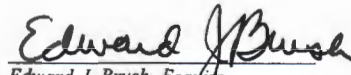
BEING also part of the same property described in a deed dated April 15, 1955 and recorded among the Land Records of Baltimore County, Maryland in Liber No. 2679, folio 507 was granted and conveyed by Albert E. CLark and Adele E. Clark, his wife, unto William K. Clark and Anita Clark, his wife.

AFFIDAVIT OF INDIVIDUAL(S)
TO QUALIFY FOR TAX EXEMPTION FOR FIRST TIME MARYLAND HOMEBUYER(S)

Grantee(s) hereby make oath or affirm under penalties of perjury that the following statements are true:

1. The undersigned individuals and each of them has/have never before owned an interest in residential real property located in the State of Maryland; and
2. the property described in the Deed to which this affidavit is attached is improved by a residence which will be occupied as my/our principal residence; and
3. I/we am/are fully qualified to make this affidavit.
4. This affidavit is made to qualify Grantee(s) for benefits under TP section 13-203.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.


Edward J. Brush, Esquire

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said parties of the second part, as joint tenants, their assigns, the survivor of them, the survivor's personal representatives, heirs and assigns, in fee simple.

And the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property hereby granted; and that she will execute such further assurances of the same as may be requisite.

And the said party of the first part hereby certifies that this conveyance is not a part of a transaction effecting a sale, lease, exchange or other transfer of all or substantially all of the property and assets of said corporate grantor herein.

Corrected by confirmatory deed, which said the correct lot was 192, 193 & 194

see SM 21105/1574



#1426

#1428

4 RAILROAD AVENUE

PETITIONER'S

EXHIBIT NO.

2

SUBJECT PROPERTIES

SHEET 1 OF 2



1428

4 RAILROAD AVENUE

1430
(ADJACENT
PROPERTY)

SUBJECT PROPERTIES

SHEET 2 OF 5

SUBTLE TWINKLES
SHEET 3 of 5
(NORTH VIEW)



SURVEY NOTES
SHEET 4 OF 5
(SOUTH VIEW)

#1428
#1426
RAILROAD
AVENUE

#1430
PROPOSED



1430 RAILROAD AVENUE
(ADJACENT PROPERTY)

SHEET 5 OF 5



July 5, 2011

Corey Papale
Daniel Papale
1430 Railroad Ave
Timonium, MD 21093

To whom it may concern:

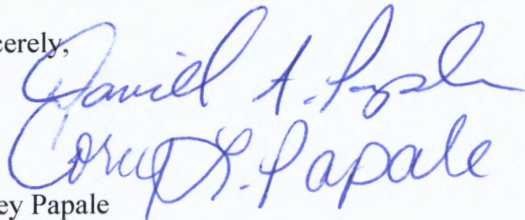
On behalf of me and my family, I am writing to express my full support for the pending decision for the side setback variance for the properties of 1426 and 1428 Railroad Ave. I also fully support Trevor Builders in the decision to tear down the two existing homes and rebuild two new homes.

I believe the two new homes will only increase the value of our house and also the neighborhood. I also look forward to the opportunity of having new neighbors to support a family oriented community.

If you have any questions concerning this matter please feel free to contact me and I will be happy to answer your questions.

I am looking forward to your decision.

Sincerely,

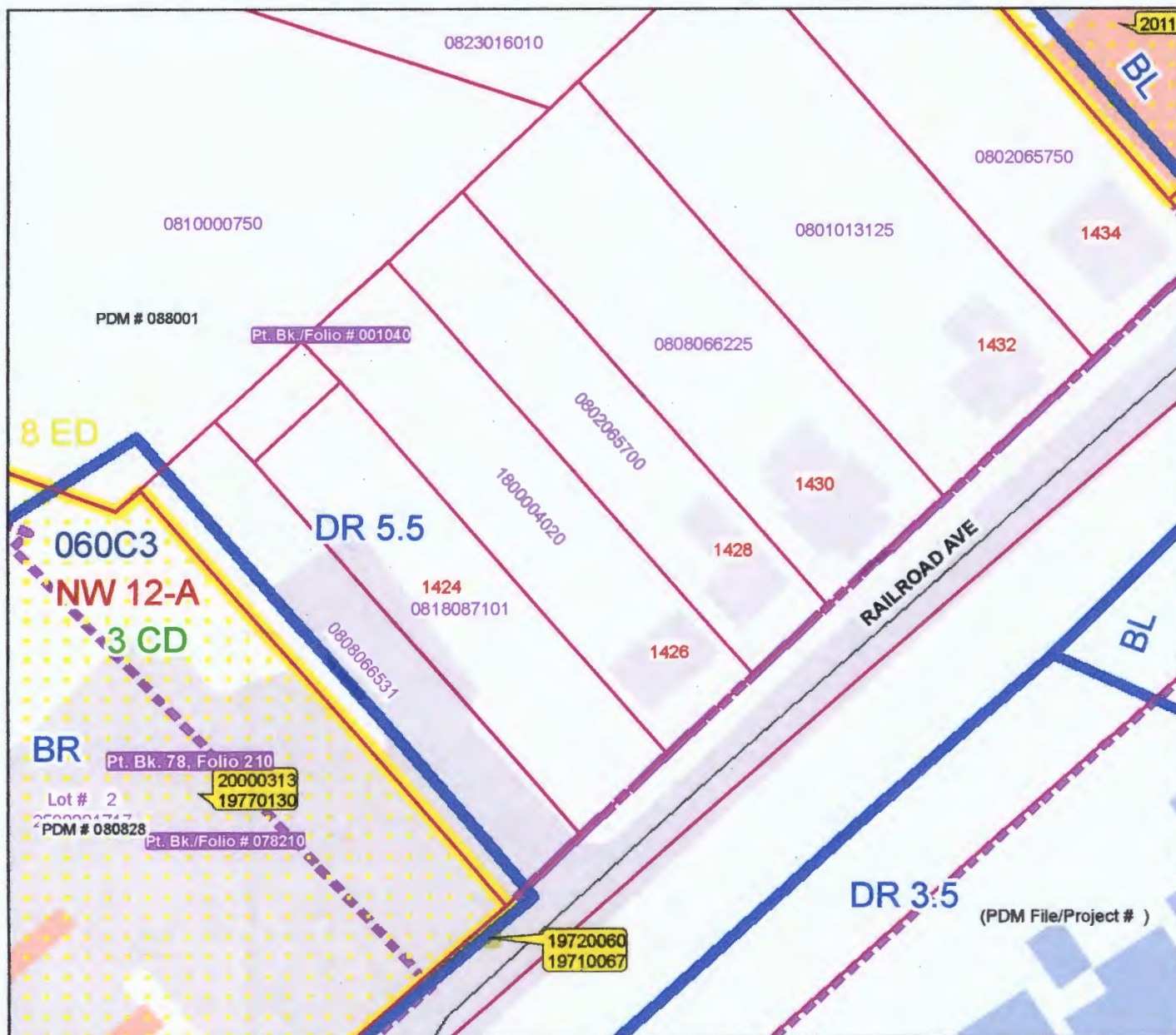
A handwritten signature in blue ink, appearing to read "Daniel A. Papale".

Corey Papale
Daniel Papale

PETITIONER' S

EXHIBIT NO. 3

1428 Railroad Avenue



Publication Date: May 18, 2011
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



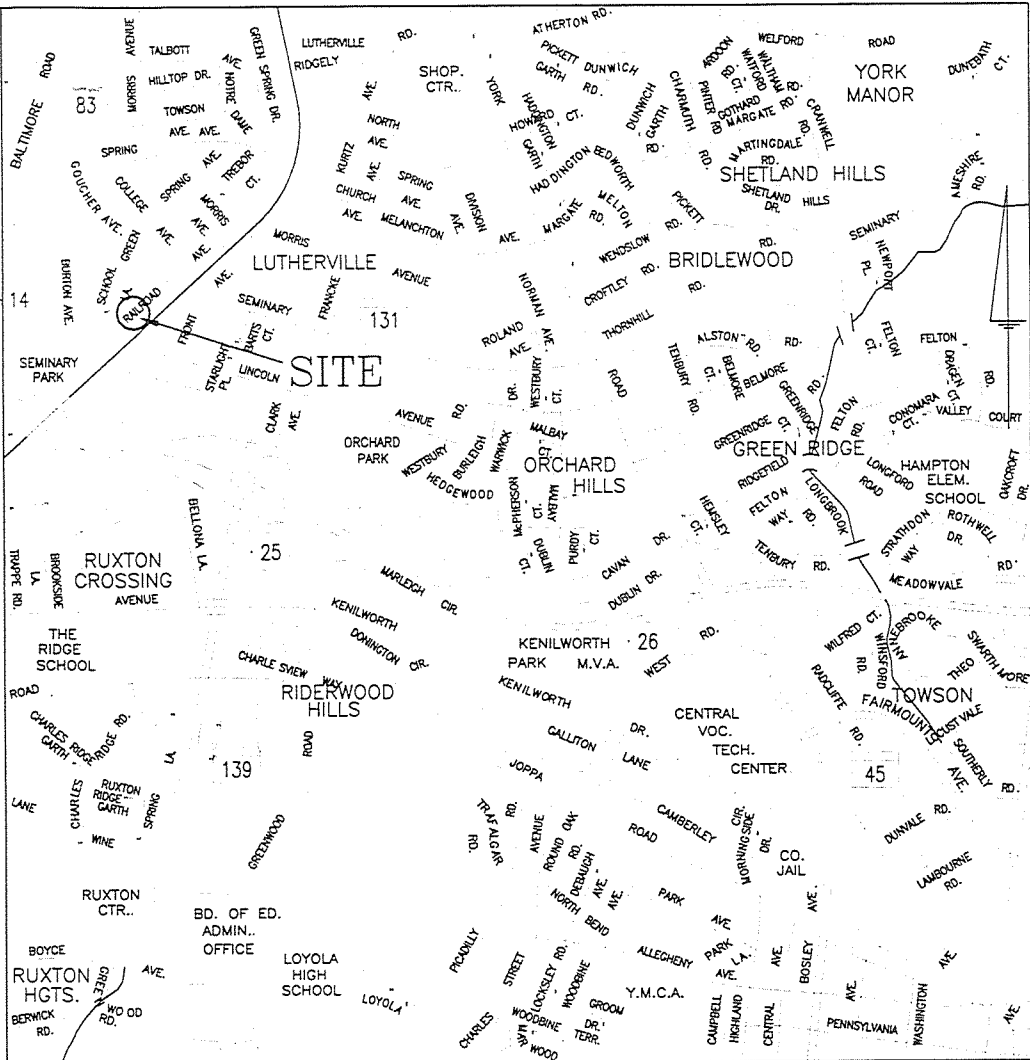
0 50 100
 Feet

1 inch = 50 feet

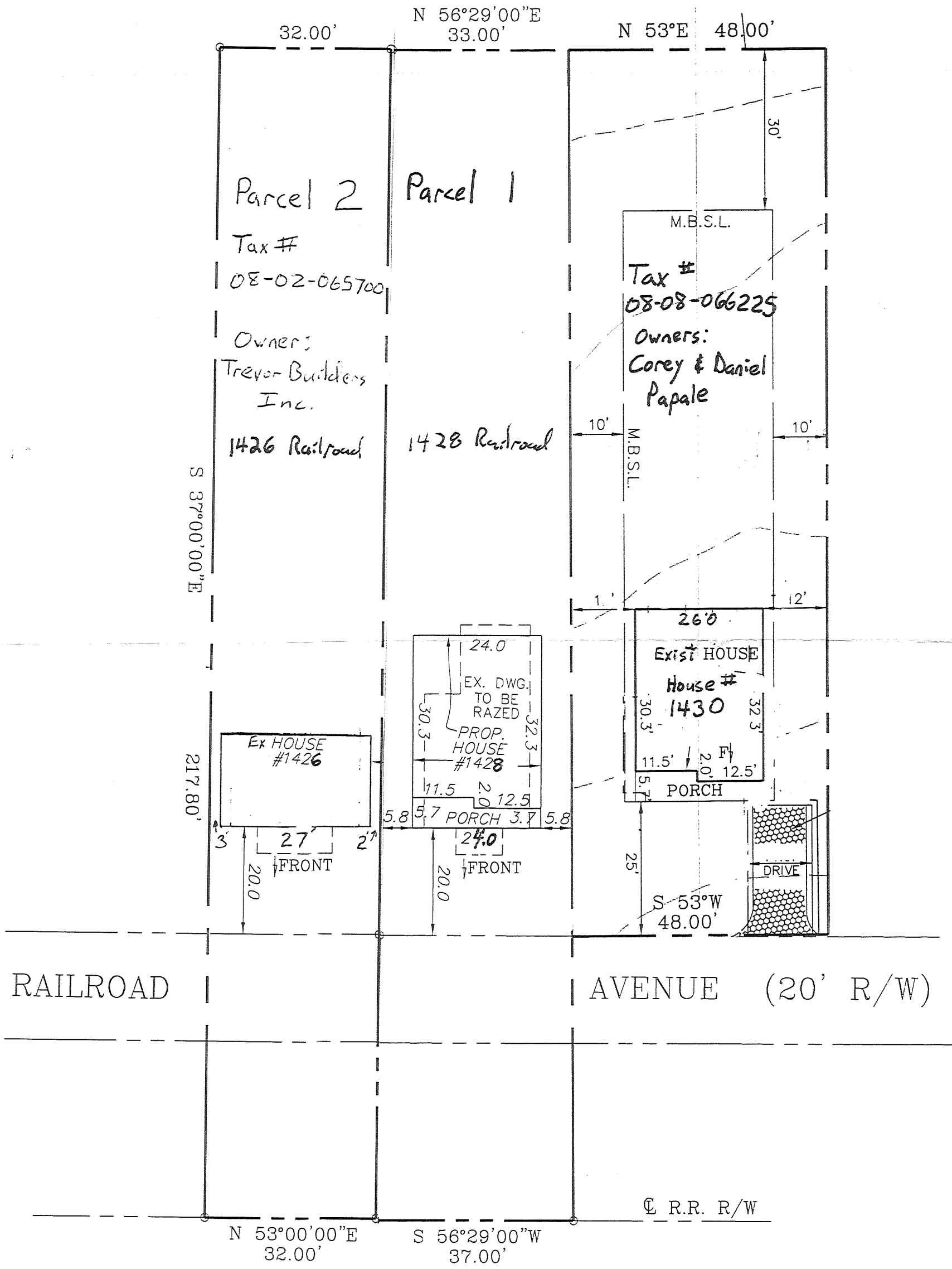
#0339

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS - #1428 RAILROAD AVENUE
SUBDIVISION NAME - *Not part of a subdivision*
PLAT BOOK -
OWNER: TREVOR BUILDERS, INC.
TAX NO. 18-00-004020
DEED REF. 30782/433 PARCEL 1



LOCATION MAP
SCALE: 1"=2000'



LOCATION INFORMATION		
ELECTION DISTRICT 8th		
COUNCILMANIC DISTRICT 3rd		
1"=200 SCALE MAP #060C3		
ZONING	DR-5.5	7,630
LOT SIZE	0.175 ACREAGE	SQUARE FEET
SEWER	☒ PUBLIC	☐ PRIVATE
WATER	☒ PUBLIC	☐ PRIVATE
CHESAPEAKE BAY CRITICAL AREA	☐ YES	☒ NO
100 YEAR FLOOD PLAIN	☐	☒
HISTORIC PROPERTY/BUILDING	☐	☒
ZONING HISTORY - NONE		
ZONING OFFICE USE ONLY		
REVIEWED BY:	ITEM #	CASE #
<i>Sh</i>	0339	2011-0339-A